

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
96 WYTHE ACQUISITION LLC	:	Case No. 21-22108 (RDD)
	:	
Debtor	:	
	:	
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APPLICATION FOR ORDER APPROVING APPOINTMENT OF EXAMINER

**TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:**

William K. Harrington, the United States Trustee for Region 2 (the “United States Trustee”), hereby applies to this Court, pursuant to Federal Rule of Bankruptcy Procedure 2007.1, for an Order approving the appointment of Eric M. Huebscher as examiner in this Chapter 11 case. In support hereof, the United States Trustee respectfully states the following:

1. Pursuant to the *Order Directing Appointment an Examiner Pursuant to 11 U.S.C. § 1104(c)*, dated November 8, 2021 [ECF No. 178] (the “Examiner Order”), the United States Trustee has been directed to appoint an examiner in the above-captioned Chapter 11 case.

2. Following consultation with counsel to the Debtor and counsel to Benefit Street Partners Realty Operating Partnership, L.P., in accordance with section 1104(d) of 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), the United States Trustee has selected Eric M. Huebscher to serve as the examiner in this Chapter 11 case.

4. To the best of the United States Trustee’s knowledge, Eric M. Huebscher’s qualifications to perform the examiner’s duties as set forth in the Examiner Order, and any connections with the Debtor, its creditors, its equityholders, its affiliated companies, any other parties-in-interest, their respective attorneys and accountants, the United States Trustee, and

persons employed in the Office of the United States Trustee, are set forth in the affidavit attached hereto as **Exhibit A**.

WHEREFORE, the United States Trustee respectfully requests that the Court enter an order approving the appointment of Eric M. Huebscher as examiner, pursuant to 11 U.S.C. §1104(d), a proposed form of which is annexed hereto as **Exhibit B**, and for such other and further relief as may be just and proper.

Dated: November 16, 2021
New York, New York

WILLIAM K. HARRINGTON
UNITED STATES TRUSTEE, Region 2

By: /s/ Greg Zipes
Greg Zipes
Annie Wells
Trial Attorneys
Office of the United States Trustee
201 Varick Street, Rm 1006
New York, New York 10014
Tel. No. (212) 510-0500

EXHIBIT A

[DECLARATION OF DISINTERESTEDNESS]

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**DECLARATION OF DISINTERESTEDNESS OF ERIC M. HUEBSCHER IN
CONNECTION WITH APPLICATION APPROVING APPOINTMENT OF EXAMINER**

I, Eric M. Huebscher, hereby declare that the following is true to the best of my knowledge, information, and belief:

1. I am the President of Huebscher & Co., a firm providing financial advisory, forensic and business advisory services.
2. I currently reside in New York, New York.
3. I submit this affidavit to establish my qualifications, and that I am a “disinterested person” as that term is defined in section 101(14) of title 11 of the United States Code (the “Bankruptcy Code”) in connection with my proposed appointment as examiner in the above-captioned Chapter 11 Case by the Office of the United States Trustee pursuant to the *Order Appointing an Examiner Pursuant to 11 U.S.C. § 1104(c)* [ECF No. 178] (the “Examiner Order”).
4. On November 10, 2021, I was contacted by the Office of the United States Trustee to consider serving as the examiner pursuant to the Examiner Order. Thereafter, I provided the Office of the United States Trustee with my relevant experience for the role of examiner in this Chapter 11 case. More specifically, I have over 20 years of experience in field

of bankruptcy, including but not limited to serving a Litigation Trustee, Plan Administrator, Financial Advisor to Debtors and Committees of Unsecured Creditors as well as being appointed as a Subchapter V Trustee in the Eastern, Southern, Northern and Western Districts of New York and the District of Vermont.

5. In connection with the proposed appointment, I also to undertake a thorough conflicts check against the entities and individuals listed on **Schedule 1** attached hereto (such parties, the “Potential Adverse Parties”).

6. Based on the results of this conflict check, neither I, nor any member of my firm, has any known connections or representations with the Potential Adverse Parties that would constitute a conflict in this Chapter 11 Case now or in the future.

7. In addition, I understand that Benefit Street Partners Realty Operating Partnership, L.P. is affiliated with or connected to Franklin Templeton, as reflected on the Franklin Templeton website at <https://www.franklintempleton.com/>. To the best of my knowledge, neither I, nor any member of my firm, has any known connections or representations with any Franklin Templeton related entity that would constitute a conflict in this Chapter 11 Case now or in the future.

8. With respect to my and Huebscher & Co. “disinterestedness” under section 101(14) of the Bankruptcy Code, I state as follows:

a) Neither I, nor Huebscher & Co. am, or have been a creditor, equity holder, or insider of the Debtor or counsel to any of such parties during this Chapter 11 Case.

b) Neither I, nor Huebscher & Co. am, or have been, a director, officer, or employee of the Debtor, or counsel for any such parties.

c) Neither I, nor Huebscher & Co. currently have or had an interest materially adverse to the interests of the Debtor or any of its creditors or equity holders by reason of any direct or indirect relationship to, connection with, or interest in the Debtor, or for any other reason.

d) Neither I, nor any member of Huebscher & Co. am a relative of any Bankruptcy Judge of the United States Bankruptcy Court for the Southern District of New York, the Office of the United States Trustee for Region 2, or any person employed by the United States Trustee.

e) Neither I, nor any member of Huebscher & Co. currently represent or have represented the Debtor, its affiliated companies, creditors, equity holders, or any other parties in interest in connection with this Chapter 11 Case.

9. No arrangement is proposed between the Debtor and me or my firm for compensation to be paid in this Chapter 11 case. No promises have been received by me, nor any member of Huebscher & Co, as to compensation in this Chapter 11 case other than in accordance with the provisions of the Bankruptcy Code and the Examiner Order.

10. Huebscher & Co. has no agreement with any other entity to share compensation received in connection with this Chapter 11 case.

11. If my proposed appointment as examiner is approved by the Court, my firm and I will maintain an ongoing inquiry regarding the Potential Adverse Parties against which the conflicts search was conducted, and if I subsequently discover any new or existing conflict in this Chapter 11 case, I will supplement the information in this Affidavit.

12. In addition, Huebscher & Co. will not provide services any current client(s) on any matter involving the Debtor if I am retained as the examiner.

13. In light of the foregoing, I believe that I am a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: November 16, 2021
New York, New York

/s/ Eric M. Huebscher

Eric M. Huebscher

SCHEDULE 1

B In Power Mechanical Inc.

Benefit Street Partners Realty Operating Partnership, LP

Centenial Elevator Industries

NBE Plumbing

NYC Dept. of Finance

NYC Water Board

Sunbelt Rentals Inc

A&L Cesspool Service Corp.

Advanced Flameproofing Corp.

Agri Exotic Trading, Inc.

Alboro National

Altour International

Amadeus Hospitality Americas, Inc

Atlantis Cleaners, Inc.

B In Power Inc

Berry's Cooling & Heating

Centennial Elevator Industries, Inc

Chase Paymentech

CHAU MUI

COD Services Corp

Commtrak

Con Edison

Dairyland USA Corp

Daytree Custom Builders Inc.

Decorative Home NY Inc

Dynamic Electric

Edison Parker & Associates LLC

FIA HERITAGE HOLDINGS, LLC

First In Service

Fivepals, Inc

Gerson Augustine Mencia Maldonado

Gerson Mencia

Global Travel Solutions Group, Inc.

Grandfield Realty Corp

Hall PR LLC

Hudson Hotel & Hospitality Maintenance

IEV Trucking Corp.

In-Room Plus Inc

International Tile

ISSM Protective Services

Jay Brodsky

Juan and Carmen Ramirez

Juan Ramirez

Keenan Witherspoon

KJ Artistic Inc

Lightning Mechanical

Mackenzie Sletten

National Grid

OES - Williamsburg Hotel LLC

Onyx CenterSource

Ovation Travel Group, Inc

Park Pro Systems

Pat LaFrieda Meat Purveyors

Peter O'Dowd

Philip Guarino

Power House Generators

Prestige Services Inc

Protek

R.A. Travel Inc.

Sabre Hospitality Solutions

ScentAir Technologies

Srinivas Thimmappa

Tambourine

Target Exterminating Inc.

The BMF Media Group, LLC

The Winthrop Group, LLC

Top Shelf Staffing

Town of Islip

Travel Leaders Group (TL Corporate)

Travel Leaders Group

Ultramar

Velocity Framers

Vertical Systems Analysis Inc.

William Carillo

William Lewis

Y&T Enterprises of Rockland Inc.

Amanda Rose Disken

ISSM Protective Services

James K Greenberg

Kevin O'Neill

Michael Berkley

William Lewis

Michael Lichtenshtein

Toby Moskovits

Backenroth Frankel & Krinsky

Jeremy Rauch

96 Wythe Mezz DE LLC

David Goldwasser

96 Wythe Borrower DE LLC

EXHIBIT B

[PROPOSED ORDER]

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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ORDER APPROVING APPOINTMENT OF EXAMINER

Upon the Application of the United States Trustee for an Order Approving Appointment of Examiner (the “Appointment Motion”), dated November 16, 2021 [ECF No. ____]; and it appearing that Eric M. Huebscher, a disinterested person within the meaning of 11 U.S.C. §101(14), has been appointed by the United States Trustee as examiner in the above-captioned Chapter 11 Case to carry out the tasks set forth in the Court’s Examiner Order;¹ and after due deliberation and sufficient cause appearing; it is hereby

ORDERED, that the appointment of Eric M. Huebscher as examiner in the above captioned Chapter 11 Case, is approved pursuant to 11 U.S.C. § 1104(d).

Dated: November __, 2021
White Plains, New York

The Honorable Robert D. Drain
United States Bankruptcy Judge

¹ Capitalized terms used but not defined herein shall have the meanings given them in the Appointment Motion.